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additional employees. Under Dicus' supervision, Lasater's sole job assignment was the completion of a staffing study to satisfy OMB. While Dicus was Lasater's supervisor, Lasater failed to meet her deadlines and violated several of the Judicial Merit System Resolutions. In addition, Lasater never completed the staffing study. Dicus ultimately decided to terminate Lasater's employment. On May 29, 2001, Lasater submitted her response to the proposed termination of her employment at a pre-disciplinary hearing. On June 8, 2001, Maricopa County Justice Court Administration terminated Lasater's employment. Lasater appealed the decision to the Judicial Merit Commission (Commission).

On July 25, 2001, a 15-day hearing commenced, involving 23 witnesses and several volumes of exhibits. Hearing Officer David Gering submitted a 62-page Findings of Fact & Conclusions of Law and Recommendation, which recommended that Lasater's termination be upheld. Specifically, the hearing officer found Lasater had violated the following Judicial Merit System Resolution provisions: 1) Incompetency, 2) Inefficiency, 3) Neglect of Duty, 4) Dishonesty/Violation of Ethical Conduct Code(s), 5) Absence Without Leave, and 6) Misuse or Destruction of Government Property.

On June 5, 2002, the Judicial Merit Commission fully adopted the Findings of Fact & Conclusions of Law and Recommendation submitted by Hearing Officer Gering. Lasater filed this administrative review action in Superior Court on July 21, 2002. Lasater relies on the Arizona Administrative Review Act (A.R.S. section 12-901 et seq.) as the source of this Court's jurisdiction.

DISCUSSION

The Arizona Administrative Review Act (ARA) authorizes judicial review of final decisions made by state administrative agencies.¹ The ARA defines the term "Administrative agency" or "agency" as "every agency, board, commission, department or officer authorized by law to exercise rule-making powers or to adjudicate contested cases...(e)xcept as provided in section 33-1905, administrative agency or agency does not include an agency in the judicial or legislative departments of the state government...(emphasis added)."²

MCJCS claims that since the Judicial Merit System Commission is clearly within the bounds of the judiciary, therefore, Lasater is barred from seeking judicial review pursuant to the ARA of her termination from the Maricopa Count Justice Court Services. Lasater claims that she is entitled to a judicial review of her termination. First, she argues that she was denied due process. Next, she argues that the Administrative Review Act is unconstitutional, and moreover, she is being denied equal protection under the law. Lastly, she argues that since the Judicial

¹ A.R.S. Section 12-902(A)(1) (2002).

² A.R.S. Section 12-901 (1) (2002).

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Commission eliminated the provision for judicial review, the Justice Courts have delegated to themselves the judicial function, which is prohibited by the separation of powers doctrine.

This Court disagrees with the Plaintiff. First, the Plaintiff was not deprived of due process. An essential element of due process is that a deprivation of life, liberty, or property be preceded by notice and an opportunity for a hearing appropriate to the nature of the case.³ One must be given an opportunity for a hearing before being deprived of any significant property interest.⁴

Here, Appellant was given notice and an opportunity to be heard before her termination. On May 10, 2001, she was notified that she was being placed on administrative leave, and that Dicus, her supervisor, was contemplating her termination.⁵ Lasater submitted her response to MCJCA's notice. After consideration of the response, the decision was made to terminate the Lasater's employment. In addition, to this pre-termination due process, Lasater was given post-termination due process. Lasater appealed her termination decision to the Judicial Merit System Commission. On July 15, 2001, a 15-day hearing began. After hearing 23 witnesses, the hearing officer submitted a 62 page Findings of Facts & Conclusions of Law recommending that Lasater's termination be upheld. She was afforded both a pre-termination and post-termination due process by her department.

Lasater argues that she was denied due process because she has a property right in her continued employment and cites to Board of Regents v. Roth⁶ for the assertion that a property interest in their employment. In Roth, the Court states that "to have a property interest in a benefit, a person clearly must have more than an abstract need or desire for it. There must be more than a unilateral expectation of it. Instead, there must be a legitimate claim of entitlement to it...[and] it is a purpose of the constitutional right to a hearing to provide an opportunity for a person to vindicate those claims."⁷

Lasater has not made a convincing argument to support her theory that she has a property interest in her employment. Merely claiming a right does not automatically give Lasater such a right, without legal support.

Lasater argues that A.R.S. § 12-901(1) does not apply to her because she performed non-judicial functions.⁸ Therefore, she argues, the decision to terminate her is subject to judicial review pursuant to the ARA. This court disagrees with the Plaintiff. All justice court employees, including administrators, are part of the judicial department of the state government, therefore, Lasater's termination is not subject to review under the ARA.

³ Cleveland Board of Education v. Loudermill, 470 U.S. 532, 542, 105 S.Ct. 1487, 84 L.Ed.2d 494 (1985).

⁴ Id.

⁵ Defendants Memorandum, p. 3

⁶ 408 U.S. 564, 92 S.Ct. 2701, 33 L.Ed.2d 548 (1972).

⁷ Roth at 577.

⁸ Plaintiff's Response to MCJCA's Motion to Dismiss, p.2, line 16-25.

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Lasater argues that the Administrative Review Act is unconstitutional because it treats Justice Court employees who perform non-judicial functions differently than County employees who perform similar functions, which is a violation of equal protection under the law. Again, this Court disagrees. Lasater argues that:

Singling out county employees who perform non-judicial functions in the Justice Court for treatment different from all other County employees who perform non-judicial functions is arbitrary, unreasonable, oppressive, and not properly within the wide field of choice allowed to the legislature.⁹

The court system is administered separately from Maricopa County, and court employees are not Maricopa County employees. Since 1998, Maricopa County's Human Resources Department has had no involvement with the administration of the Judicial Merit System Rules.¹⁰ Moreover, the fact that court employees are treated differently from county employees is not a violation of the Equal Protection Clause because A.R.S. § 12-901 et. seq. is rationally related to an important state interest. Lasater admits that all discrimination is not forbidden.¹¹ The law clearly states that where a classification does not involve a suspect class or a constitutionally protected interest, the Equal Protection Clause is violated only if the classification is wholly unrelated to the objectives of the state's actions.¹² This is known as the "rational basis test." Here, county and court employees are not a suspect class. Government employment is not a fundamental right. Therefore, the rational basis test applies.

Under the rational basis test a legislative act will not be set aside if any set of facts rationally justifying it is perceived by the courts.¹³ Here, the judicial department must maintain the power of control over personnel directly connected with the operation of courts.¹⁴ In State v. Pima¹⁵, the court held that the courts must have complete independence. Therefore, since A.R.S. § 12-901(1) is rationally related to the state's interest in promoting an independent judiciary, it is not violative of the Equal Protection Clause.

Lasater's final claim is that the separation of powers has been violated. She argues that the legislature has all powers not expressly granted to another branch. When the Justice Court

⁹ Plaintiff's Response, p.4. lines 10-14.

¹⁰ Defendants Reply, p.6, lines 16-18.

¹¹ Plaintiff's response to Motion to Dismiss, p. 4.

¹² Goodyear Farms v. City of Avondale, 148 Ariz. 216, 219, 714 P.2d 386, 389 (1986) (citing State v. Reiss, 128 Ariz. 60, 61, 623 P.2d 849, 850 (App. 1981).

¹³ Goodyear, 148 Ariz. at 219.

¹⁴ State v. Pima, 147 Ariz. 146, 148, 798 P.2d 1337 (App. 1985).

¹⁵ Id.

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eliminated the rights of Superior Court appeal, Lasater argues it delegated to itself a judicial function which is prohibited.

The right to appeal an administrative decision can only be conferred by statute. The Judicial Merit System Commission did not usurp a judicial or legislative function by eliminating non-enforceable language within its rules relating to the ARA. This construction is consistent with the legislative intent of the ARA.

This Court finds that Plaintiff was a classified service Justice Court employee, and could be terminated for cause. And, that review pursuant to the ARA is not available to Plaintiff Lasater, who was employed by an agency within the judicial branch of government.

IT IS THEREFORE ORDERED GRANTING the defendant's Motion to Dismiss.

IT IS FURTHER ORDERED that defendant lodge an order consistent with this opinion no later than April 2, 2003, with any appropriate application and affidavit for attorney fees and costs.